REMARKS

Applicants reply to the Office Action mailed September 27, 2007 ("Office Action"). Claims 1-29 are pending in the application and have all been rejected. Applicants amend claims 1-3, 5-6, and 9-29 for clarity and to correct minor informalities and not for reasons of patentability. Applicants add new claims 30-33 and submit that no new matter has been added with these claims. After entry of this Amendment, claims 1-33 are pending.

Claim Rejections under 35 U.S.C. §112

Claims 13 and 14 are rejected under 35 U.S.C. §112 as lacking sufficient antecedent basis for claim limitations "said actual employee budget" and "said potential position budget," respectively. Claims 13 and 14 have been amended to provide sufficient antecedent basis for these limitations to the claims. Therefore, Applicants respectfully request that the 35 U.S.C. §112 rejection for lack of antecedent basis against claims 13 and 14 be withdrawn.

Claims 13 and 14 are rejected under 35 U.S.C. §112 as duplicate claims. The Examiner asserts that claims 13 and 14 depend on claim 12 and that claim 12 is dependent on claim 11, thereby making claims 13 and 14 duplicate claims. Claim 12 depends on claim 4, not as the Examiner asserts, on claim 11. Further, claim 13 depends on claim 11, not as the Examiner asserts, on claim 12. As claims 13 and 14 do not depend from the same claim, they are not duplicate claims. Therefore, Applicants respectfully request that the 35 U.S.C. §112 rejection against claims 13 and 14 as duplicate claims be withdrawn.

Claim Rejections Under 35 U.S.C. §102(b)

Claims 16 and 23 are rejected under 35 U.S.C. §102(b) as allegedly being anticipated by Williams (U.S. Patent No. 5,600,554). Applicants respectfully traverse the rejection and request reconsideration based on the following remarks.

To establish a proper 102 rejection under MPEP § 2131, each element of the claim must be taught expressly or inherently within the prior art. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Applicants note, as a first matter, that the Examiner has provided no explanation for why he believes Williams teaches each and every element of claims 16 and 23. Instead, the Examiner recites verbatim claim language and refers Applicants to "abstract, column 1: line 41" as purportedly teaching all elements of both claims 16 and 23. Applicants respectfully submit that the Examiner has not provided Applicants with a complete response, as required by 37 I.E. 1.104(b), nor has the Examiner "fully and clearly stated" the grounds for rejection as required by MPEP 707.07(d).

Moreover, neither the Abstract nor column 1, line 41, nor Williams as a whole, teaches at least "monitoring said budget during said predefined period of time," as recited by both claims 16 and 23. In fact, the Examiner admits as much on page 4 of the Office Action and therefore the rejection of claims 16 and 23 under 35 U.S.C. §102(b) is erroneous. Claim 1, like claims 16 and 23, recites "monitoring said budget during said predefined period of time." On page 4, the Examiner states "Williams ('554)

does not expressly show automating the step of monitoring." Since the Examiner

acknowledges that Williams does not teach at least one element of claims 16 and 23,

the rejection of these claims under 35 U.S.C. §102(b) is erroneous. Applicants

respectfully request that any subsequent Office Action be made non-final in light of this

error.

Claim Rejections Under 35 U.S.C. §103(a)

Claims 1-8 are rejected under 35 U.S.C. §103(a) as being unpatentable over

Williams in view of *In re Venner*, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958)

(hereinafter "*Venner*"). Applicants respectfully traverse the rejection and request

reconsideration based on the following remarks.

To establish a prima facie case of obviousness, the MPEP and the case law

requires that (1) the prior art references must teach or suggest all claimed elements, (2)

there must be some reason why a person of ordinary skill in the art would have

combined the prior art elements in the manner claimed, and (3) there must be a

reasonable expectation of success. *See MPEP § 2142* and *USPTO Memorandum* from

Margaret A. Focarino, Deputy Commissioner for Patent Operations, May 3, 2007,

page 2. Applicants respectfully submit that the cited references fail to meet at least one

of these requirements with regards to the rejected claims.

As discussed above, the Examiner acknowledges that Williams does not teach at

least the step of monitoring. The Examiner, however, asserts that automating the step

of monitoring is an obvious modification of the prior art, citing *In re Venner* (Pg. 4 of

Office Action). The Examiner asserts on page 4 of the Office Action that "the claimed

step of monitoring only provides automating the manual activity with the end result

being the same as compared to the manual method" and "there is no enhancement

found in the claimed step."

Claim 1, as amended, provides the enhanced step of automatically notifying a

user based on the monitoring. As manually monitoring a human resource budget would

not be able to provide an automatic notification to a user, the claimed step provides an

enhancement over manually monitoring the budget. Thus, Williams fails to teach or

suggest all of the claimed elements of claim 1, even in light of *In re Venner*. Therefore,

for at least the reasons presented above, claim 1 is allowable over the cited prior art.

Additionally, claim 1 is patentable for the further reason that Williams fails to

disclose "retrieving human resource data and evaluating a human resource budget for a

given human resource object for a predefined period of time on the basis of said

retrieved data," as recited in claim 1. Williams is directed to a "system for managing

payroll data and human resource data for employees" (Abstract) and is "used to secure,

integrate, and manipulate both employee payroll and human resource (personnel)

information (column 2, lines 46-48). Williams "facilitates the tracking of user(s) changes

to both employee payroll and human resource information" (column 2, lines 53-55).

Thus, Williams discloses a data management system wherein two types of data are

integrated together but Williams fails to disclose "evaluating a human resource budget

for a given human resource object."

Moreover, evaluating a human resource budget for a given human resource

object for a predefined period of time offers considerable advantages over the prior art.

For example, evaluating a human resource budget on the basis of retrieved human

resource data allows a user to compare actual human resource expenditures with budgeted human resource expenditures. The comparison may allow a user to detect discrepancies between a human resource budget and actual human resource expenditures. Thus, over or under-drawing the human resource budget may be detected quickly and may be subsequently remedied.

For at least these reasons, Applicants submit that claim 1 is patentable over the cited art. Claims 2-8 depend on claim 1 and are patentable for at least the same reasons provided above, with respect to claim 1.

Claims 11 and 12 are rejected under 35 U.S.C. §103(a) as being unpatentable over Williams in view of *Venner* as applied to claim 4, and further in view of Ruth E. Thaler-Carter, "*EMA Model Defines Cost-Per-Hire as Part of Staffing Performance*", HRMagazine, Dec., 1997, Vol. 42, Iss. 12, Pg. 51-54 (hereinafter "Thaler-Carter"). Applicants respectfully traverse the rejection and request reconsideration based on the following remarks.

Claims 11 and 12 depend on claim 1 and are patentable for at least the same reasons provided above, with respect to claim 1. Claims 11 and 12 are patentable for at least the following reasons as well.

The Examiner admits that Williams in view of *Venner* fails to teach a "commitment engine [that] calculates <u>position cost simulations for employee positions</u> on the basis of said position data for said predefined period of time, <u>the sum of said position cost simulations being the potential position budget for an employer entity or sub-entity</u> for said predefined period of time" (emphasis added) as recited in claim 11

and asserts that Thaler-Carter teaches the above admitted deficiency of Williams (Pg. 6 of Office Action).

Thaler-Carter discusses a model for defining a cost-per-hire for employee positions (Abstract/Summary) to achieve a "better common indicator of the productivity of the recruiting effort" (*Id.* at 51). The cost-per-hire assessment of Thaler-Carter includes "internal, external, and direct costs" (*Id.* at 51). Internal costs may include recruiter salaries, travel, lodging and administration while external costs may include travel, lodging and salaries for other recruiters (*Id.* at 51-52). Direct costs may include advertising, job fairs, executive search fees, etc. (*Id.* at 52). Thus, Thaler-Carter calculates the costs related to hiring an individual for the position, not the cost of the position itself. Therefore, Thaler-Carter fails to teach or suggest a "commitment engine calculates one or more position cost simulations for an employee position," as recited in claim 11. Thaler-Carter further fails to teach "a sum of said position costs simulations being a potential position budget for an employer entity or sub-entity for a predefined period of time," as also recited in claim 11. Thus, neither Williams nor Thaler-Carter, alone or in combination, teach or suggest all of the claimed elements of claim 11. Therefore, for at least the reasons presented above, claim 11 is allowable over the cited prior art.

With regard to claim 12, the Examiner acknowledges that Williams fails to teach a "commitment engine [that] calculates <u>employee cost simulations for an existing employee</u> on the basis of said individual employee data for said predefined period of time, <u>the sum of said employee cost simulations being the actual employee budget for an employer entity or sub-entity</u> for said predefined period of time" (emphasis added)

and asserts that Thaler-Carter teaches the above admitted deficiency (Pg. 7 of Office Action). For at least the reasons presented above with respect to claim 11, Thaler-Carter fails to teach or suggest calculating an "employee cost simulation for an existing employee." Thaler-Carter further fails to teach "a sum of employee costs simulations being an actual employee budget for an employer entity or sub-entity for said predefined period of time," as recited in claim 12. Thus, neither Williams nor Thaler-Carter, alone or in combination, teach or suggest all of the claimed elements of claim 12. Therefore, for at least the reasons presented above, claim 12 is allowable over the cited prior art.

Claims 13 and 14 are rejected under 35 U.S.C. §103(a) as being unpatentable over Williams in view of *Venner*, further in view of Thaler-Carter as applied to claim 12, and further in view of Clark et al. (U.S. Patent No. 5,164,897). Applicants respectfully traverse the rejection and request reconsideration based on the following remarks.

The Examiner asserts on page 7 of the Office Action that claims 13 and 14 depend on claim 12. This is clearly an error as claim 13 depends on claim 11 and claim 14 depends on claim 12. Since the Examiner misinterpreted the dependency of claims 13 and 14, the rejection of these claims under 35 U.S.C. §103(a) is erroneous. Applicants respectfully request that any subsequent Office Action be made non-final in light of the fact that it is unclear from the record whether the Examiner properly examined claim 13.

Claims 13 and 14 ultimately depend on claim 1 and are patentable for at least the same reasons provided above, with respect to claim 1. Claim 13 immediately depends on claim 11 and is patentable for at least the same reasons provided above, with respect to claim 11. Claim 14 depends on claim 12 and is patentable for at least the

same reasons provided above, with respect to claim 12. Claims 13 and 14 are patentable for the following additional reasons as well.

The Examiner admits that Williams in view of *Venner* fails to teach a "commitment engine [that] provides <u>an indication for a hiring decision regarding hiring of new personnel</u> on the basis of the difference between a potential position budget and said actual employee budget" and asserts that Clark teaches the above noted deficiency of Williams (Pg. 7 of Office Action).

Claim 13, as amended, recites a "commitment engine [that] provides <u>an indication for an employee position opening for new personnel</u> on the basis of the difference between a potential position budget and said actual employee budget." Clark is directed to a method for selecting personnel from a group of candidates based on one or more selection criteria (Abstract). Clark further teaches a method of sampling the market for a type of candidate to aid in planning a project. The sampling method includes generating a database status report that indicates the total number of candidates currently available and a range of billing rates for the candidates (column 15, lines 55-60). Thus, Clark arguably teaches a method for selecting individual personnel from a group of applicants and projecting the cost of one or more employees for a specific project. Clark, however, fails to teach or suggest providing "an indication for an employee position opening for new personnel based on a difference between said potential position budget and an actual employee budget," as recited in claim 13. Therefore none of Williams, Thaler-Carter, nor Clark, alone or in combination, teach or suggest all of the elements of claim 13. Thus, for at least the reasons presented above, claim 13 is allowable over the cited prior art.

Claim 14 provides language similar to that found in claim 13. For at least the reasons provided above, with respect to claim 13, Applicants respectfully submit that claim 14 is patentable over the cited prior art.

Claim 15 is rejected under 35 U.S.C. §103(a) as being unpatentable over Williams in view of *Venner* as applied to claim 4, and further in view of Nearhood et al. (U.S. Patent No. 7,249,072). Applicants respectfully traverse the rejection and request reconsideration based on the following remarks.

Claim 15 depends on claim 1 and is patentable for at least the same reasons provided above, with respect to claim 1. Claim 15 is patentable for the following additional reasons as well.

As acknowledged by the Examiner, Williams in view of *Venner* fails to teach "said commitment engine automatically recognizes changes to said human resource data that are relevant to said budget and re-evaluates said budget" (Pg. 8 of Office Action). The Examiner asserts that Nearhood teaches the deficiency of Williams (Pg. 8 of Office Action).

Claim 15, as amended, recites a "commitment engine [that] <u>automatically recognizes changes to said human resource data</u> that are relevant to said human resource budget and <u>automatically re-evaluates</u> said human resource budget." Nearhood is directed to a "system for managing property tax information for a plurality of real estate parcels" (Abstract). Nearwood teaches a Budget Worksheet window for a computer system that displays a generated budget (Figure 13, column 11, lines 53-54). The generated budget may be recalculated "by selecting the Recalculate Budget button 342" (Figure 13, column 11, lines 58-59). Because the option of recalculating the

budget must be actively selected, Nearhood teaches away from the automatic re-evaluation of the budget as recited in claim 15. Furthermore, Nearwood fails to mention recognizing changes to human resource data, either manually or automatically, as recited in claim 15. Therefore, neither Williams nor Nearhood, alone or in combination, teach or suggest all of the elements of claim 15. Therefore, for at least the reasons presented above, claim 15 is allowable over the cited prior art.

Claims 9 and 10 are rejected under 35 U.S.C. §103(a) as being unpatentable over Williams in view of *Venner* as applied to claims 6 and 8 above, and further in view of Applicants admission of prior art. Applicants respectfully traverse the rejection and request reconsideration based on the following remarks.

Claims 9 and 10 depend on claim 1 and are patentable for at least the same reasons provided above, with respect to claim 1. Claims 9 and 10 are patentable for at least these reasons as well.

Claim 9 depends from claim 6. Claim 9, as amended, recites "monitoring [that] involves a comparison of said calculated <u>individual employee salary</u> budget with <u>one or more</u> actually effected salary payments" (emphasis added), which incorporates "providing an <u>automatic notification</u> to a user based on said monitoring" as recited in claim 6. The Examiner admits that Williams does not expressly teach "said monitoring involves a comparison of said calculated budget with actually effected salary payments" and asserts that the monitoring is taught in the prior art cited by Applicants (Pg. 9 of Office Action). The prior art cited by Applicants, however, fails to teach or suggest "<u>monitoring</u> [that] involves a comparison of said calculated individual employee salary budget with one or more actually effected salary payments" which incorporates

"providing an <u>automatic notification</u> to a user based on said monitoring" as recited in claim 6.

Rather, the prior art cited by Applicants teaches a general budgeting process wherein "a company budgets for new employees at the beginning of the fiscal year, but when the new employee is subsequently hired, the money committed for the new hire may be no longer available" (Paragraph [004] of the present application) because the money paid to the new hire is made without monitoring a comparison of a employee salary budget with one or more actually effected salary payments and providing an automatic notification to a user based on the monitoring. Thus, in the conventional budgeting and accounting systems cited by the Applicants, "this shortfall may not be recognized until the end of the year, causing the human resource department to be over budget and requiring a company to account for the shortfall by using money allocated to other departments" (Paragraph [004] of the present application). As such, the prior art cited by Applicants fails to teach or suggest monitoring that involves a comparison of a calculated individual employee salary with one or more actually effected salary payments and providing an automatic notification to a user based on the monitoring as recited in claim 9.

For at least these reasons, Applicants respectfully submit that claim 9 is patentable over the cited prior art. Therefore, for at least the reasons presented above, claim 9 is allowable over the cited prior art.

Claims 17-22, and 24-29 are rejected under 35 U.S.C. §103(a) as being unpatentable over Williams in view of Pendergrass (U.S. Patent No. 4,400,017).

Claims 17-22 and 24-29 depend on claims 16 and 23, respectively and are patentable for at least the same reasons provided above, with respect to claims 16 and 23.

Claims 30-33 are new. Claims 30-31 depend from claim 16 and claims 32-33 depend from claim 23. Thus, claims 30-33 and are patentable for at least the same reasons provided above, with respect to claims 16 and 23, respectively. Additionally, claims 31 and 33 recite "providing an automatic notification to a user based on the monitoring" which provides the enhancement, over the prior art, of an automatic notification to a user. For at least these reasons, Applicants respectfully submit that claims 30-33 are patentable over the cited prior art.

Conclusion

In view of the foregoing amendments and remarks, Applicants respectfully requests reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
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Dated: December 21, 2007   By: _____ 45,681
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